

FILED
U.S. DISTRICT COURT
SAVANNAH DIV.

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

CLERK 
SO. DIST. OF GA.

JOHN W. WURST,

Plaintiff,

v.

CAROLYN W. COLVIN, Acting
Commissioner of Social
Security,

Defendant.

CASE NO. CV416-061

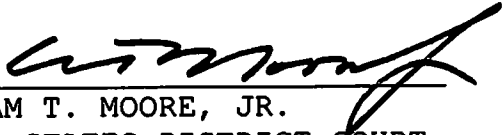
O R D E R

Before the Court is the Magistrate Judge's Report and Recommendation (Doc. 7), to which objections have been filed (Doc. 9; Doc. 11). After a careful de novo review of the record, the Court concludes that Plaintiff's objections are without merit. Accordingly, the report and recommendation is **ADOPTED** as the Court's opinion in this case. As a result, Defendant's Motion to Dismiss is **GRANTED** and Plaintiff's complaint is **DISMISSED**. The Clerk of Court is **DIRECTED** to close this case.

In his objections, Plaintiff argues that his time for filing an appeal should run from the date of the notice of final determination's postmark, not the date listed on Defendant's notice of final decision. (Doc. 9 at 6-9.) However, the Eleventh Circuit Court of Appeals has

determined that the date of receipt of a final determination is the date of the actual notice, not the postmark. Williams v. Comm'r, Soc. Sec. Admin., 664 F. App'x 763, 765 (11th Cir. 2016) (citing Cook v. Comm'r of Soc. Sec., 480 F.3d 432, 436-37 (6th Cir. 2007)). Moreover, Plaintiff's complaint would be untimely even assuming the December 15, 2015 postmark was controlling. Using that date, Plaintiff would still have to file his complaint by Thursday, February 18, 2016. As a result, Plaintiff's February 22, 2016 filing is untimely.

SO ORDERED this 30th day of March 2018.


WILLIAM T. MOORE, JR.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA